

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 3:05-cr-141-MEF
)	
ROY TERRY)	
)	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S MOTION
TO DELAY COLLECTION OF RESTITUTION**

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for Middle District of Alabama, and in response to the Motion to Delay Collection of Restitution filed by the Defendant herein, the following is submitted:

Defendant cites no legal basis for the court to enter an order delaying collection of restitution, and none of the statutes potentially on point are applicable. For example, defendant does not point to a “material change in [his] economic circumstances that might affect the defendant’s ability to pay restitution.” 18 U.S.C. § 3664(k). Collection of a restitution judgment is also governed by the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3001, et seq., *see* 18 U.S.C. § 3613. However, that Act has no provisions that would permit a generalized stay of execution of the restitution order. *See* 28 U.S.C. 3203(f)(1)(A)(ii) (permitting debtor to avoid sale of levied property by posting a bond).

Finally, even if the court had the power to grant the relief sought, the facts defendant points to would not justify it. In almost any case, seizure of defendant’s assets might work a hardship on the defendant’s family. Here, the victim’s money forestalled for several years the inevitable

bankruptcy of Terry Manufacturing, allowing the defendant and his family to avoid the hardship attendant to such a bankruptcy. The victims should not be required to continue to involuntarily finance Mr. Terry and his family. Therefore, the court should deny Terry's motion.

Respectfully submitted this the 6th of March, 2007.

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

George L. Beck, Jr.

Respectfully submitted,

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